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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability (NOFA) for the Organic Certification Cost Share Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The Farm Service Agency (FSA), on behalf of the Commodity Credit Corporation (CCC), is announcing the availability of funding under the Organic Certification Cost Share Program (OCCSP) for eligible certified organic producers and handlers. FSA is also announcing the opportunity for State Agencies to apply for grant agreements to administer the OCCSP program in fiscal year (FY) 2019. State Agencies that establish agreements for FY 2019 may be given the opportunity to extend their agreements and receive additional funds to administer the program in future years. Through this notice, FSA is providing the requirements for producers and handlers to apply for OCCSP payments, and for State Agencies to establish agreements to receive funds in order to provide cost share assistance to eligible producers and handlers.

DATES: *Applications for State Agency Agreements:* FSA will accept applications from State Agencies for funds for FY 2019 cost-share assistance between the period of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and **[INSERT DATE OF 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

Producer and Handler Applications: FSA county offices will accept applications for OCCSP payments from producers and handlers for FY 2019 until October 31, 2019. For FY 2020 through 2023, FSA will accept applications from October 1 of the applicable FY through October 31 of the following FY.

FOR FURTHER INFORMATION CONTACT: Tona Huggins, Program Policy Branch Chief, (202) 720-7641, Tona.Huggins@wdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

OCCSP provides cost share assistance to producers and handlers of agricultural products for the costs of obtaining or maintaining organic certification under the National Organic Program (NOP). USDA's Agricultural Marketing Service (AMS) administers NOP, which was established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501-6524) and the regulations in 7 CFR part 205. FSA has administered OCCSP beginning with FY 2017.

The purpose of this NOFA is to announce funding availability and general eligibility and administrative provisions for FY 2019 through 2023. FSA is not making substantive changes to OCCSP.

FSA will accept applications from State Agencies interested in overseeing reimbursements to producers and handlers in their States. In order for a State agency to receive a new fund allocation for FY 2019, it must establish a new agreement with FSA. FY 2019 agreements will include provisions that allow FSA to extend the agreements to provide additional funds and allow State Agencies to continue to administer OCCSP for future years. FSA has not yet determined whether an additional application period will

be announced for later years for State Agencies that choose not to participate in FY 2019; State Agencies that would like to administer OCCSP for future years are encouraged to establish an agreement for FY 2019 to ensure that they will be able to continue to participate.

All producers and handlers can apply for OCCSP through their local FSA offices. In States where State Agencies choose to administer OCCSP, a producer or handler may apply to either the State agency or the local FSA office; they cannot receive payment from both. Producers and handlers are subject to the same eligibility criteria and calculation of cost share payments regardless of whether they apply for OCCSP through an FSA local office or a participating State agency. FSA will coordinate with participating State Agencies to ensure there are no duplicate payments. If a duplicate payment is inadvertently made, then FSA will inform the participant and require that funds be returned to CCC.

Availability of Funds

Funding for OCCSP is provided through two authorizations: (1) National Organic Certification Cost Share Program (National OCCSP) funds and (2) Agricultural Management Assistance (AMA) funds.

Section 10105 of the Agricultural Improvement Act of 2018 (2018 Farm Bill, Pub. L. 115-334) amended section 10606(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523(d)), authorizing \$2 million from CCC to be used for National OCCSP funds for each of FYs 2019 and 2020, \$4 million for FY 2021, and \$8 million for each of FYs 2022 and 2023, to remain available until expended. In addition,

approximately \$16.4 million in National funding remains available from previous FYs and will be used to fund OCCSP in 2019 and later years as needed.

National OCCSP funds will be used for cost share payments to certified operations in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

The USDA organic regulations recognize four separate categories, or “scopes,” that must be individually inspected for organic certification: crops, livestock, wild crops, and handling (that is, processing). A single operation may be certified under multiple scopes. For example, a certified organic vegetable farm that also has certified organic chickens and produces certified organic jams would be required to be certified for three scopes: crops, livestock, and handling. State organic program fees are also eligible for cost share reimbursement and for OCCSP purposes are considered an additional, separate scope. State organic program fees may be required by States that have established a State organic program according to 7 CFR 205.620 through 205.622, and are in addition to the costs of organic certification under the four scopes of USDA organic certification. National OCCSP funds can be used to provide cost share for all four scopes of USDA organic certification (that is, crops, wild crops, livestock, and handling) and the additional scope of State organic program fees.

In addition to the National OCCSP funds, an additional \$1 million in AMA funding is authorized in 7 U.S.C. 1524 for each FY. AMA funds may be used only for cost share payments for organic certification for the three scopes of crops, wild crops, and livestock, and are specifically targeted to the following 16 States:

- Connecticut,
- Delaware,
- Hawaii,
- Maryland,
- Massachusetts,
- Maine,
- Nevada,
- New Hampshire,
- New Jersey,
- New York,
- Pennsylvania,
- Rhode Island,
- Utah,
- Vermont,
- West Virginia, and
- Wyoming.

Sequestration will apply to the total amount of funding available for OCCSP for FYs 2019 through 2023, if required by law.

Cost Share Payments

As required by law (7 U.S.C. 6523(b)), the cost share payments cannot exceed 75 percent of eligible costs incurred, up to a maximum of \$750 per scope for each certified organic operation. FSA will calculate 75 percent of the allowable costs incurred, not to exceed a maximum of \$750 per scope.

Cost share assistance will be provided for allowable costs paid during the same FY for which the OCCSP payment is being requested. Cost share assistance will be provided on a first come, first served basis, until all available funds are obligated for each FY. Applications received after all funds are obligated will not be paid. Allowable costs for producers and handlers include:

- Application fees;
- Inspection fees, including travel costs and per diem for organic inspectors;
- USDA organic certification costs, including fees necessary to access international markets with which AMS has equivalency agreements or arrangements;
- State Organic Program fees;
- User fees or sale assessments; and
- Postage.

Unallowable costs include:

- Inspections due to violations of USDA organic regulations or violations of State Organic Program requirements;
- Costs related to non-USDA organic certifications;
- Costs related to transitional certification;
- Costs related to any other labeling program;
- Materials, supplies, and equipment;
- Late fees;
- Membership fees; and
- Consultant fees.

Allowable costs for participating State Agencies include:

- Allowable cost share payments to eligible producers and handlers; and
- Indirect costs based a current negotiated indirect cost rate agreement, a de minimis indirect cost rate (as applicable), or other rate in accordance with 2 CFR 200, Appendix VII.

Eligible Producers and Handlers

To be eligible for OCCSP payments, a producer or handler must both:

- Possess USDA organic certification at the time of application; and
- Have paid fees or expenses related to its initial certification or renewal of its certification from a certifying agent.

Operations with suspended, revoked, or withdrawn certifications at the time of application are ineligible for cost share reimbursement. OCCSP is open to producers and handlers in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

How to Submit an Application

State Agencies

State Agencies must have an agreement in place to participate in OCCSP. To provide cost share assistance for FY 2019, State Agencies must complete an Application for Federal Assistance (Standard Form 424 and 424B) and enter into a grant agreement with FSA. State Agencies must submit the Application for Federal Assistance (Standard Form 424 and 424B) electronically via Grants.gov, the Federal grants website, at <http://www.grants.gov>. For information on how to use Grants.Gov, please consult <http://www.grants.gov/GetRegistered>. State Agencies intending to utilize subgrantees must refer to the Fiscal Year 2019 Full Notice of Funding Opportunity Announcement on Grants.Gov for additional application requirements. FSA will accept applications from States for funds for FY 2019 cost-share assistance between the period of **[Insert date of publication in the FEDERAL REGISTER]**, and **[Insert date 30 days after date of publication date in the FEDERAL REGISTER]**. Upon receipt of complete applications, FSA may begin reviewing the applications and may make awards prior to the deadline. Pending fund availability, applications received after the deadline may be considered. The grant agreement must be signed by an official who has authority to apply for Federal assistance.

Producers and Handlers

Certified operations may apply for OCCSP payments through FSA local offices or through a State agency (or authorized subgrantee) if their State has established an agreement to administer OCCSP.

To apply for OCCSP through FSA, an applicant must submit a complete application, either in person or by mail, to any FSA county office. A complete application includes the following documentation:

- Form CCC-884 – Organic Certification Cost Share Program, available online at <https://www.fsa.usda.gov/programs-and-services/occsdp> or at any FSA county office;
- Proof of USDA organic certification;
- Itemized invoices showing expenses paid to a third-party certifying agency for certification services during the FY in which the application is submitted; and
- An AD-2047, if not previously provided.

Applicants may be required to provide additional documentation to FSA if necessary to verify eligibility or issue payment.

FSA is currently accepting applications for eligible costs incurred in FY 2019. For costs incurred in FYs 2020 through 2023, the application period will begin on October 1 of the respective FY. The application periods end on October 31 of the following FY, or when there is no more available funding, whichever comes first. For example, for costs incurred during FY 2019 (October 1, 2018, through September 30,

2019), the application period ends the earlier of October 31, 2019, or when funding is no longer available.

Participating State Agencies will establish their own application process and deadlines for producers and handlers, as specified in their grant agreements, and eligible operations must submit an application package according to the instructions provided by the State agency. State Agencies should refer to the Full Notice of Funding Opportunity Announcement on Grants.gov for additional details on process and deadline requirements. A list of participating State Agencies will be available at <https://www.fsa.usda.gov/programs-and-services/occsp> after their agreements with FSA to administer OCCSP are finalized.

Definitions

For this NOFA, the following definitions apply.

“State agency” means the agency, commission, or department responsible for agriculture under its jurisdiction in each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“USDA organic certification” means a determination made by a certifying agent that a production or handling operation is in compliance with Organic Foods Production Act of 1990 (7 U.S.C. 6501-6522) and the regulations in 7 CFR part 205, which is documented by a certificate of organic operation.

The following definitions from the regulations of 7 CFR 205.2 also apply to this NOFA: “certified operation,” “certifying agent,” “crop,” “handler,” “inspection,”

“inspector,” “labeling,” “livestock,” “organic,” “organic production,” “processing,” “producer,” “State certifying agent,” “State organic program,” and “wild crop.”

Other Provisions

Producers and handlers who file an application with FSA have the right to an administrative review of any FSA adverse decision with respect to the application under the appeals procedures in 7 CFR parts 780 and 11. FSA program requirements and determinations that are not in response to, or result from, an individual disputable set of facts in an individual participant’s application for assistance are not matters that can be appealed.

A producer or handler may file an application with an FSA county office after the OCCSP application deadline, and in such case the application will be considered a request to waive the deadline. The Deputy Administrator has the discretion and authority to consider the case and waive or modify application deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of OCCSP. Although applicants have a right to a decision on whether they filed applications by the deadline or not, applicants have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator’s refusal to exercise discretion to consider the request will not be considered an adverse decision and is, by itself, not appealable.

Any producer or handler who applies to a State agency is subject to review rights afforded by the State agency.

Participating State Agencies that are dissatisfied with any FSA decision relative to a State agency agreement may seek redress in accordance with 2 CFR 200.341.

The regulations governing offsets and withholdings in 7 CFR part 1403 apply to OCCSP payments. Any participant entitled to an OCCSP payment may assign such payment(s) in accordance with the regulations in 7 CFR part 1404.

Awards to State Agencies will be subject to 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Paperwork Reduction Act Requirements

The information collection request for OCCSP is approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB control number for the approval is 0560-0289.

Catalog of Federal Domestic Assistance

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this NOFA applies is 10.171, Organic Certification Cost Share Program (OCCSP).

Environmental Review

The environmental impacts of this NOFA have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). The purpose of OCCSP is to provide cost share assistance to producers and handlers of agricultural products in obtaining organic certification. This NOFA merely announces

funding availability and general eligibility and administrative provisions for FY 2019 through 2023. FSA is not making substantive changes to OCCSP. As such, the Categorical Exclusions found at 7 CFR part 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii) (that is, financial assistance to supplement income). No Extraordinary Circumstances (7 CFR 799.33) exist. As such, FSA has determined that this NOFA does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this administrative action and this NOFA serves as documentation of the programmatic environmental compliance decision.

Richard Fordyce,
Administrator,
Farm Service Agency.

Robert Stephenson,
Executive Vice President,
Commodity Credit Corporation.

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